



March 26, 2018

## Mayor David A. Condon

Chris Hladick  
Region 10 Administrator  
US Environmental Protection Agency (EPA)  
1200 6<sup>th</sup> Ave.  
Mail Code: RA-210  
Seattle, WA 98101

Dear Mr. Hladick,

We are looking forward to meeting you next week here in Spokane. Because your time with us is short, we thought it might be helpful to provide you with a little background in advance related to our concerns about the Water Quality Standards for Protecting Human Health that EPA developed for Washington State in late 2016. As you likely are aware, we are most concerned about the numeric limit of 7 ppq for PCBs within this rule—a standard that is unachievable and not even reliably measured. (Please see the briefing paper for more background.)

As you can see in the attached timeline, we have spent the last 18 months talking to state and federal officials trying to find a path forward. Spokane citizens need a solution that is affordable, achievable, and measurable. We already are investing heavily in the health of the Spokane River, spending \$340 million on projects to reduce pollutants, including PCBs, going to the river and meet obligations for metals, dissolved oxygen, and nutrient loading. Our integrated approach has garnered praise nationally, resulting in Spokane receiving the 2015 National Environmental Achievement Local Public Service Award from the National Association of Clean Water Agencies (NACWA).

In 2014, we took out a 20-year mortgage to pay for this work, and our citizens can't afford higher utility bills. In 2016, Spokane's median household income (MHI) was \$45,676, considerably lower than the MHI for the U.S., Washington State, or the city of Seattle. We are applying for Opportunity Zones under the new tax bill because of the income levels of our citizens.

The most promising path forward currently appears to be a variance to the standard. The Clean Water Act variance process is a shared responsibility between the state and federal governments. So, we respectfully ask for your help. Initially, we need EPA to support a variance process and commit resources to engage with Ecology and our community to develop an appropriate variance, since ultimate approval of such a variance rests with EPA. We also need assurance about the length of the variance and the expectation of additional progress and expense during the time of the variance.

As a former City Manager, certainly you understand that Spokane cannot chase unattainable goals at any cost. There are far too many priorities for the precious dollars our citizens provide.

Sincerely,

A handwritten signature in black ink that reads "David A. Condon". The signature is stylized with a large, sweeping "D" and "C".

David A. Condon  
Mayor

***The City of Choice***

808 W. Spokane Falls Blvd. • Spokane, Washington 99201-3335  
Phone: 509.625.6250 FAX: 509.625.6563

*City of Spokane*

# **Water Quality Standards Concerns**

## **Briefing Paper**



*March 2018*

### **Issue:**

The City of Spokane is seeking support for a viable solution to address concerns related Water Quality Standards for Washington state developed by U.S. Environmental Protection Agency (EPA) in 2016. The EPA rule, particularly the numeric limit for PCBs, is unattainable and threatens the City's long-term financial wellbeing and citizen affordability without any appreciable increase in overall public health. Spokane is seeking a long-term, achievable solution that is affordable for Spokane's citizens and recognizes the investment already made by the City and its citizens.

### **Water Quality Standards Background:**

In mid-November 2016, the EPA overrode the Washington State Department of Ecology's (Ecology) water quality standards for Washington state in favor of its own. The EPA quickly published the new rule, which took effect at the end of December 2016.

The abrupt change in direction followed a years-long process by Ecology to update Washington's Water Quality Standards for Protecting Human Health as found in Chapter 173-101A of the Washington Administrative Code (WAC), and planning for \$340 million in City investment based, in part, on these standards. Ecology worked hard to develop a thoughtful water quality rule, with PCBs set at 170 ppq, based on sound science in order to protect human health. The Ecology rule considered the unique attributes of the state's watersheds, the discharges within our state, and the efforts which have been undertaken to reduce pollution in Washington. The City supported Ecology's efforts in developing criteria for PCBs, arsenic, and methyl mercury that used scientific standards, common sense, and conditions within Washington state.



Instead of supporting this collaborative process, the EPA released its own rule, leaving Ecology with a nearly impossible compliance workload, municipal dischargers with unachievable and immeasurable standards, and the public with a tremendous impending financial drain on the economy without a reasonable expectation of an increased health benefit.

The City is particularly concerned about the numerical limits for PCBs in the EPA rule. That standard, at 7 ppq, is unachievable with any current or anticipated technology. There aren't even tests that can effectively measure PCBs at that level.

### **Spokane's Environmental Investment:**

The City of Spokane celebrates the river as our greatest natural asset and seeks to protect it for future generations. The City voluntarily developed a comprehensive Integrated Clean Water Plan that will greatly enhance the health of the Spokane River. The plan includes projects to reduce overflows from combined sewers to the river, reduce stormwater runoff entering the river, and to improve the treatment at the City's wastewater treatment plant. The plan takes aim at a variety of pollutants and will deliver magnitudes greater pollution reduction benefits to the river than if the City chose to complete only the work that is required by the Clean Water Act and other mandates.

These investments total more than \$340 million. This is a generational investment in our river and overall environmental health. The City sold \$200 million in "green" revenue bonds to fund this work, which won't be paid off for 20 years. The work will be finished in 2021.



Additionally, the City, in concert with the Spokane region and Ecology, also has been a leader in developing innovative and direct-to-implementation projects which specifically address and reduce PCBs and other toxics in our watershed.

The Spokane River Regional Toxics Task Force (SRRTTF) is a collaboration of NPDES dischargers (public entities and private), environmental interest groups, regulators in Washington and Idaho, and the EPA. The City's participation is a mandatory requirement of the permit. The approach to PCBs taken by the SRRTTF is to identify and implement PCB controls and monitor how the river responds to PCB controls and is designed to be an alternative to imposing numeric limits.

### **Closing:**

The City is especially concerned about maintaining affordability of its utility services to assist our families. In 2015, the City's median household income (MHI) was \$44,350, considerably lower than the City of Seattle's MHI of \$75,331, the state's MHI of \$64,129, and the U.S.'s MHI of \$55,775. As a result, the City has committed to limit annual utility rate increases to inflation for the next 20 years and still achieve the environmental results previously set for the City.

Washington state—by EPA's own admission—is already one of the most environmentally protective states in the nation. In fact, the past EPA Region 10 Director Dennis McLerran was quoted in the news release which announced the EPA water-quality standards as saying, "Washington maintains one of the strongest water programs in the entire nation." Yet, the federal agency still elected to override Ecology's good work, ignore the input of Washington citizens, businesses, and government agencies, and render standards for particular pollutants that are frankly unattainable and immeasurable.

## EPA Water Quality Standards (Fish Consumption Rule)

### Milestone Record

#### City of Spokane

2016-2018

Date	What	Who
November 15, 2016	EPA announces it has developed new Water Quality Standards for Washington State. Includes 7 ppq standard for PCBs and an arsenic standard below what's found naturally in groundwater	EPA announcement
November 15, 2016	Ecology Director Maia Bellon issues a news release indicating that Ecology is "disappointed" by EPA's decision and said Ecology's work was tailored to work for Washington state	Ecology news release
November 28, 2016	City Council is briefed on the new EPA Water Quality Standards at the Public Works Committee Meeting.	Elizabeth Schoedel, Scott Simmons
November 29, 2016	Staff briefs Mayor on new EPA Water Quality Standards and PCB limits expected in new NPDES permit	Mayor, Theresa Sanders, Mike Piccolo, Scott Simmons, Elizabeth Schoedel, Cadie Olsen, Marlene Feist, Craig Trueblood on the phone
November 29, 2016	Inland Empire Paper and Greater Spokane Incorporated meet with Mayor to discuss PCB standards.	Doug Krapas, Todd Mielke, Mayor, Scott Simmons, Marlene Feist
November 30, 2016	Final EPA Water Quality Standards Rule was published in the Federal Register.	EPA action
December 7, 2016	Meeting with Grant Pfeiffer and Jim Bellaty, Ecology, at North Monroe office	Scott Simmons, Marlene Feist, Cadie Olsen
December 12, 2016	Meeting with State Legislative Delegation in City Hall – Included information on water quality standards	Mayor, Theresa Sanders, Council Members, staff
December 13, 2016	State of Idaho submits final Water Quality Standards rule to EPA. Fish consumption at 17.5 g and cancer risk at 1 in 100,000. PCB limit would be 190 ppq	Idaho action
December 15, 2016	Association of Washington Business (AWB) sends letter to the Governor asking the state to seek reconsideration of the EPA Water Quality Standards.	AWB action
December 16, 2016	Received information from Association of Washington Business (AWB) on their work to get the rule reviewed/reconsidered.	Marlene Feist

December 22, 2016	Letter requesting a reconsideration of the EPA standards sent to EPA Region 10 Director Dennis McLerran	From the Mayor
December 22, 2016	Letter requesting Ecology to ask for a reconsideration of the EPA Water Quality Standards sent to Ecology Director Maia Bellon	From the Mayor
December 28, 2016	Final EPA Water Quality Standards Rule takes effect – 30 days after publication in the Federal Register.	EPA Action
January 6, 2017	Meeting with staff members of our Federal Delegation to discuss the need for reconsideration of the Water Quality Standards promulgated by EPA	Mayor, Scott Simmons, Marlene Feist, Katherine Miller
Week of January 16, 2017	Mayor met with Congressional leaders in Washington, DC. This was one of the topics discussed.	Mayor
January 23, 2017	Response received from Dennis McLerran of EPA, declining the City's request to reconsider the Water Quality Standards	To the Mayor
January 23, 2017	Met with Craig Trueblood to brainstorm ideas on how to get the rule reconsidered	Elizabeth Schoedel, Scott Simmons, Marlene Feist, Cadie Olsen
January 25, 2017	EPA officials meet with Spokane River Regional Toxics Task Force to discuss new water quality standards.	Elizabeth Schoedel, Cadie Olsen
February 7, 2017	Letter from Mayor to State leaders, Erickson and Benton, who were named to the EPA Transition Team about Water Quality Standards	From the Mayor
February 8, 2017	Letter to Erickson and Benton shared with City Council	Scott Simmons
February 10, 2017	Letter from Ecology to the Mayor from Department of Ecology, stating Ecology was uncertain whether they would challenge the EPA rule	To the Mayor
February 21, 2017	AWB (Association of Washington Business) files a petition for reconsideration of the EPA Water Quality Standards.	AWB action
February 22, 2017	Public Works Director works with federal lobbyist to get an assessment of the proposed HR 465 and discuss other strategies around the new water quality standards	Scott Simmons
February 23, 2017	Mayor signs on with the U.S. Conference of Mayors in support of HR 465, which is about integrated planning. Specifically, it would	Marlene Feist & U.S. Conference of Mayors

	require EPA to ensure that a standard is technically achievable and that the technology is affordable.	
February 27, 2017	Received letter from EPA Region 10, acknowledging receipt of letter to Erickson and Benton and referencing an upcoming conference call with EPA staff.	From EPA
March 2, 2017	Phone conference call with EPA staff from national and region 10 headquarters	Mayor, Scott Simmons, Elizabeth Schoedel, Marlene Feist
March 23, 2017	Followup letter to Erickson and Benton after conference call with EPA Staff, indicating dissatisfaction with that meeting and requesting an in-person meeting	From the Mayor
March 23, 2017	Followup letter to Congressional delegation after conference call with EPA staff, indicating dissatisfaction with that meeting and requesting in-person meetings	From the Mayor
April 1, 2017	Article in U.S. Conference of Mayors Water Council e-newsletter for April.	From the U.S. Conference of Mayors Water Council
April 5, 2017	Meeting Eastern Regional Director for State Department of Ecology Grant Pfeifer to discuss Ecology's current position on standards.	Scott Simmons, Grant Pfeifer
April 11, 2017	Meeting with Spokane Riverkeeper Jerry White, Lands Council CEO Mike Peterson, and Center for Justice's Rick Eichstaedt to discuss City's position on standards.	Scott Simmons, Marlene Feist, Jerry White, Mike Peterson, Rick Eichstaedt
April 12, 2017	Phone meeting with Ecology officials to discuss process of how our new NPDES permit will ultimately incorporate new standards.	Scott Simmons, Marlene Feist, Elizabeth Schoedel, Lars Hendron, Sara Hunt, Ellie Key, Diana Washington, Grant Pfeifer
May 31, 2017	Adriane Borgias and Grant Pfeifer from Ecology spoke to the SRRTTF about their plans to hold "in-depth" listening sessions with all affected parties, tribes and NGOs by the fall. All permittees were to remain covered under administrative extensions until new permits are completed.	Adriane Borgias, Grant Pfeifer, Cadie Olsen, members of the SRRTTF
June 30, 2017	Ecology sends letter with an attached administrative order related to NLT milestones and CSO completion dates	From Ecology, Adriane Borgias
October 6, 2017	Visit to Washington D.C. to meet with Congressional Delegation and EPA in person. EPA staff suggest using a discharger variance that would consider affordability.	Mayor, Scott Simmons <b>EPA Headquarters:</b> Lee Forsgren, Deputy Assistant Administrator for Water, Office of Water Sara Hisel-McKoy, Director,

		<p>Standards and Health Protection Division (Office of Science and Technology, Office of Water)  Corey Buffo, Chief, Regional Branch, Water Quality Standards Program, Office of Science and Technology, OW  Christopher Kloss, Branch Chief, Water Permits Division (OW)</p> <p><u>EPA Region X:</u> Lucy Edmondson, Director, Washington Operations Office  Cindy Schuster, Regional Intergovernmental Contact  Michael Lidgard, Acting Director, Office of Water and Watersheds  Angela Chung, Associate Director, Office of Water and Watersheds</p>
October 19, 2017	Ecology "listening" session on NPDES permits and incorporating new water quality standards.	Scott Simmons, Cadie Olsen, Marlene Feist, Heather Bartlett, Jason Norberg, Adriane Borgias, Ellie Key, Grant Pfeifer
October 24, 2017	Conference Call with EPA and Ecology as a followup to DC meeting to further understand variances and how one could be implemented.	<p><b>City:</b> Scott Simmons, Marlene Feist, Cadie Olsen, Elizabeth Schoedel;</p> <p><b>EPA:</b> Lucy Edmondson; Mike Lidgard; Angela Chung; Matthew Szelag; Lindsay Guzzo; Brian Nickel</p> <p><b>Ecology:</b> Heather Bartlett, Ellie Key, Grant Pfeifer, Adrian Borgias, Jason Norberg</p>
November 15 & 16, 2017	Spokane River Forum; informal discussions with EPA Region 10, Ecology; presentation from Ecology on plans to proceed with NPDES permit development	<p><b>City:</b> Scott Simmons, Marlene Feist, Cadie Olsen, Elizabeth Schoedel, Dan Kegley</p> <p><b>EPA:</b> Lucy Edmondson</p> <p><b>Ecology:</b> Adrian Borgias (Others)</p>
November 21, 2017	Second Conference Call with EPA and Ecology as a followup to DC meeting for fact-finding on variances.	<p><b>City:</b> Scott Simmons, Marlene Feist, Cadie Olsen, Elizabeth Schoedel;</p> <p><b>EPA:</b> Lucy Edmondson; Mike Lidgard; Angela Chung; Matthew Szelag; Lindsay Guzzo;</p>

		Brian Nickel, Tanja Crk Ecology: Heather Bartlett, Ellie Key, Grant Pfeifer, Adrian Borgias, Melissa Gildersleeve, Cheryl Niemi
December 4, 2017	Meeting with EPA and Ecology in Olympia to further analyze what had been discussed in the two conference calls.	Scott Simmons, Marlene Feist, Lucy Edmondson, Heather Bartlett
December 7, 2017	City, Spokane County, and Liberty Lake Sewer & Water District meeting to discuss how the municipal dischargers could work together toward creative solutions.	Scott Simmons, Marlene Feist, Mike Coster, Cadie Olsen, Rob Lindsay, Kevin Cooke, Lars Hendron, Ben Brattebo, Bijay Adams
February 14, 2018	City, Spokane County, and Liberty Lake Sewer & Water District meeting to discuss how the municipal dischargers could work together toward creative solutions.	Scott Simmons, Cadie Olsen, Rob Lindsay, Kevin Cooke, Lars Hendron, Ben Brattebo, Bijay Adams
March 1, 2018	Conference call set up by U.S. Rep. Cathy McMorris Rodgers office to check in with Lee Forsgren at EPA.	Lee Forsgren. EPA officials. Representatives from Spokane River dischargers.
March 8, 2018	Meeting of Municipal dischargers and Ecology to discuss Ecology's timeline and approach to issuing new NPDES permits on the Spokane River. Focus on adaptive management and agreed-upon orders in advance of new permits	Scott Simmons, Marlene Feist, Cadie Olsen, Mike Coster, Adrian Borgias, Grant Pfeifer, Ellie Key, Heather Bartlett, Kevin Cooke, Rob Lindsay, Tom Agnew, Dennis Fuller, Bijay Adams
March 14, 2018	Ecology public meeting and stakeholder meeting outlining their approach to issuing new NPDES permits. Meeting held at Liberty Lake Water & Sewer.	Scott Simmons, Cadie Olsen, Mike Coster. Ecology officials. Spokane River dischargers. Environmental advocates. Members of the public.